

REMARKS

[01] Item 7 of the Office Action rejects all pending Claims 1, 3-6, and 8-10 as being obvious given U.S. Patent Publication 2004/0098421 to Peng, “Peng” herein, in view of U.S. Patent No. 6,763,403 to Cheng et al., “Cheng” herein. These rejections are traversed in part because the claims include limitations not disclosed by either reference.

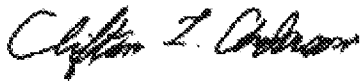
[02] Peng discloses that a service provider can gather actual usage data for applications running on a client device (e.g., cell phone) via the service providers network coupling to the device. The usage data can be used to define subgroups of a target group selected to receive an update. The usage data can then be used to prioritize the subgroups for delivery scheduling. Peng discloses delivering an update to said client devices according to the schedule.

[03] Peng does not disclose generating usage data on a user system. The Office Action asserts that Peng discloses generating usage data on a user system at Peng, Fig. 2, [0028-0036], and [0036-0039], but the limitations is not disclosed in any of those paragraphs. Peng does not disclose transferring usage data to an update site. The Office Action asserts that Peng discloses this limitation at [0037-0040], Fig. 2, and [0028-0033], but no such limitation can be found in these paragraphs. Peng does not disclose prioritizing updates as a function of usage data. The Office Action asserts that this limitation is disclosed at Peng, Fig. 3, [0041-0044], [0060], Fig. 5, and [0052-0053]. However, these locations do not disclose prioritizing updates.

[04] CONCLUSION

[05] Limitations regarding where usage data is gathered, the transfer of usage data, and its use in prioritizing updates are not disclosed by either reference relied on in the obviousness rejections. Therefore, the obviousness rejections should be withdrawn. Accordingly, it is respectfully submitted that the present application is in condition for allowance, which allowance is respectfully requested.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Clifton L. Anderson". The signature is written in a cursive, flowing style.

Clifton L. Anderson
Reg. No. 30,989
(408) 257-6070